

**MINUTES OF THE MARCH 2005 MEETING  
OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Friday, March 4, 2005, in Room 22, State Capitol, Des Moines, Iowa.

Members present: Representative George Eichhorn, Chair, and Senator Paul McKinley, Vice Chair; Senators Michael Connolly and John P. Kibbie; Representatives Danny Carroll, Marcella Frevert, David Heaton and Geri Huser. Senators Jeff Angelo and Mary Lundby were not present.

Also present: Joseph A. Royce, Legal Counsel; Kathleen K. West, Administrative Code Editor; Gary Dickey Jr., Administrative Rules Coordinator; fiscal staff, caucus staff and other interested parties.

Convened Chair Eichhorn convened the meeting at 9 a.m.

**FISCAL IMPACT STATEMENTS** Jennifer Vermeer indicated that two rule makings from the department of human services and one from the department of revenue will have a fiscal impact in excess of \$100,000.

**EDUCATION DEPARTMENT** Carol Greta, Leland Tack and Su McCurdy represented the department. Senator John Putney was also present.

ARC 3983B No questions on proposed amendments relating to petitions for rule making.

ARC 3978B No action on proposed rules relating to the certificate of need required for school districts to expend funds received from the supplemental school infrastructure amount for construction of a new building. Discussion focused on the criteria requiring district enrollment of at least 300 students with 30 students per grade in the new building. Tack reported that the department estimates that more than \$11 million will be available for supplemental aid to school districts; these funds can be used for construction of a new building only if the district has a certificate of need. Tack indicated that the department anticipates receipt of many comments at the public hearings.

Special review Royce noted that Iowa Code section 279.10 establishes the start of the school year and provides that a district may request a waiver of that date if the public supports the district's determination that there would be a significant negative educational impact. Greta confirmed that the department requires the date of the public hearing on early start requests but does not require districts to prove a detrimental impact, and the department routinely grants requested waivers. Senator Putney viewed the department's handling of waiver requests as contrary to the statute and expressed concern that early school starting dates encroach on family vacations, recreation, tourism, and youth participation in the state fair. The committee did not arrive at a consensus regarding waiver of the legislatively mandated starting date.

**HUMAN SERVICES DEPARTMENT** Nancy Freudenberg, Eugene Gessow and Barbara Galloway represented the department. Other interested parties included Peter Pashler, Timothy Hood, Don Krings and Larry Otten representing the Creston School District.

ARC 4016B No questions on rule 7.1 and ch 186, implementing community care as part of the redesign of the Iowa child welfare system.

ARC 4017B No questions on amendments pertaining to annual adjustment for state supplementary assistance.

ARC 4018B No action on 61.18, regarding the refugee services foundation established as a nonprofit entity to raise funds to supplement federal funds for refugee services. Freudenberg agreed to find out whether the foundation would be able to receive state gambling revenues as a community foundation and whether the state auditor would have authority to audit use of the moneys.

ARC 3968B No action on increases in the telephone and utility allowances for food assistance eligibility.

ARC 3967B No questions on amendments to accept Medicaid applications sent by fax as original applications.

ARC 4014B No questions on proposed amendments to ch 176 concerning requirements for reporting dependent adult abuse.

ARC 4019B No questions on amendments to ch 182 pertaining to family-centered supervision services.

ARC 4015B No questions on proposed amendments to ch 201 concerning subsidized adoptions.

Human Services Department (continued)

Special review Because Freudenberg will be making a determination in an appeal which is in process, she was excused. Eichhorn provided background information about Medicaid moneys available to schools and indicated that after an audit of the Creston School District which resulted in an overpayment which must be repaid to the federal government, questions have been raised about the adequacy of DHS rules.

Gessow distributed materials and directed the committee’s attention to the portion of the provider manual which stipulates conditions of participation and the agreement entered into between participating schools and the department of human services, both of which refer to records which must be kept to document medical services provided by the schools. Gessow stated that provider training was available to all participants. As the administrator of the Medicaid program, DHS has the responsibility to conduct audits, identify overpayments, and maintain the integrity of the Medicaid program.

Representatives of Creston schools stated that they participated in the training arranged by the Iowa Association of School Boards via the ICN network, and they believe they complied with documentation requirements. Pashler asserted that DHS needs to specify in rules detailed requirements for districts.

Committee members expressed concern that since the first audit found that insufficient documentation resulted in a repayment owed the federal government, audits of the other participating schools may have a similar outcome. Members asked for a report from the departments of human services and education next month.

**ENVIRONMENTAL PROTECTION COMMISSION** Jim McGraw, Chuck Correll, Bob Drustrup, Gene Tinker, and Randy Clark represented EPC.

ARC 4005B No action on proposed amendments to chs 20, 22 and 31 and proposed new chapter 33 regarding permit requirements for major stationary sources.

ARC 4003B No action on proposed addition of a protected water source in Clinton County.

ARC 4004B No questions on amended 65.17(13)“e,” regarding records of commercial nitrogen and phosphorous application.

**NATURAL RESOURCE COMMISSION** Jon Tack represented the commission.

ARC 4041B No action on proposed ch 48 concerning inspection of permanently moored vessels by the natural resource commission. Tack stated that the \$20 inspection fee will not be sufficient to offset the cost of the program and noted that the Iowa Gaming Association has requested an emergency after notice adoption of the rules.

**DENTAL EXAMINERS BOARD** Jennifer Hart represented the board.

ARC 3974B No questions on the termination of proposed amendments and a new notice regarding mandatory reporting of acts or omissions.

**PROFESSIONAL LICENSURE DIVISION** Pierce Wilson represented the division. Other interested parties included Jenny Tyler, Dr. Dan McGuire, and Doug West of the Iowa Athletic Trainers’ Society, and Mark Coberley of the board of athletic training examiners.

ARC 3947B No questions on amendments to chs 351, 352 and 354 regarding athletic trainers. Tyler, McGuire, West and Coberley all expressed support for the amendments and use of the term “rehabilitation” in the definition of “physical reconditioning.”

**TRANSPORTATION DEPARTMENT** John Hey represented the department.

ARC 3888B No questions on proposed 810.4 regarding first aid and medical treatment for railroad employees.

**Committee business** The minutes of the February 2005 meeting were approved.

Royce distributed copies of two bills amending chapter 17A that have passed the House. Discussion related to the provision allowing any 25 persons to request a regulatory analysis and the potential for misuse. Members concurred that the committee should be advised of proposed legislation affecting rule making. Royce agreed to keep the committee apprised of such bills.

A meeting to review Medicaid payments to schools will be held in the afternoon on Thursday, March 31, 2005. The April meeting of the committee will be held Friday, April 1, 2005.

Adjourn The meeting was adjourned at 11:55 a.m.

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Kathleen K. West

APPROVED:

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Chair George Eichhorn

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Vice Chair Paul McKinley